perding, has decided that the claimant is a successor in office of the late incumbent, and as such is entitled to the custody of the books end papers to enable him to the custody of the books end papers to enable him to the discharge the appropriate duties of his office. I to discharge the appropriate duties of his office. I to concur in the views of one of my associates, as excent in the term of the books and papers to the claimant, and him to the matter then before him, that "although not bound in effect to restrain the proceedings of the officer in the matter then before him, that "although not bound in the matter then before him, that "although not bound in the matter then before him, that "although not bound to bound to respect it as a controlling consideration in bound to respect it as a controlling consideration in bound to respect it as a controlling consideration and my sense of judicial fitness. The public order and the harmonious action of the judiciary, as was in substance observed by a late distinguished Chancellor, are more important than the rival claims, however interesting to the immediate parties, of two competing flour inspectors and a Street Commissioner." These considerations induced me, when application was first made for the writ of certurari, to refuse to accompany it with any stay of proceedings; and on the subject being brought again to my notice, to make an order that the writ should not in any way operate as a stay or interruption of the proceedings pending before my associate.

I had supposed that all his judicial action had terminated to the control of the proceedings before in the subject to bring in

my associate.

I had supposed that all his judicial action had termiliated, and that the effect of the trial was to bring in mated, and that the effect of the claimant to the books revision solely the right of the claimant to the books revision solely the right of the intention of the and papers. I did not does sight of the intention of the revision solely the right of the channat to the books and papers. I did not loss sight of the intention of the statute to have such telivery speedy and effective, nor did I think the party proceeded against had no remedid I think the party proceeded against had no remedid I think the correctness of his decision reviewed in this Court. If erroneous it will be reversed, and the papers and books will be returned to him. If correct, every consideration shows that the books and papers thould be delivered in compliance with the order. It is better that the parties to this proceeding should be put to some inconvenience (no substantial legal right is jeoparded by a compliance with this order), than that a public statute passed for wise and beneficial purposes, and essential to the due administration of government and the discharge of the duties of its public differs, should be practically set at nought.

It was conceded in the argument that the allowance of this writ rested in the discretion of the Court. Such discretion, however, is to be exercised with a deep

It was conceded in the argument that the allowance of this writ rested in the discretion of the Court. Such discretion, however, is to be exercised with a deep sense of duty as well to the applicant for the writ, as to the rights of the public and the consequences which might follow from granting it.

The case of Lynde and Noble, in 20 John, shows that in no case should it be granted until there has been a final adjudication of the matter by the officer before whom the proceeding is pending. And even in such a case it has been refused, where the Court saw that great injustice and wrong might result from issuing it. I san satisfied, as I was when this case was first presented to me, that I ought not to interfere at all with the proceedings while pending before the officer undetermined. That I have the discretion to grant or refuse the writ of certiforari, and that, having granted it, with the qualification that it should not operate as a stay of proceedings, and being clearly of the opinion that it ought not to operate as a stay, and it being insisted upon by the relator who procured its allowance that it is a stay, I have no doubt that it is any duty to do in effect what this Court did in the case of Patchin agt. Mayor of Brooklyn [13 Wend. 671], direct a supersedeas of the writ; and the service is superseded accordingly.

Passed on this decision Judge Davies made the followed the content of t erseded accordingly.

Based on this decision Judge Davies made the fol-

lowing order:

At a Special Term of the Supreme Court, held in and for the City and County of New-York, at the City Hall in said city, on the 18th day of July, 1857. Present, H. E. Davies, Justice.

The people of the State of New-York, on relation of Charles Devlin agt. Charles A. Peabody, one of the Lustices of this Court.

Charles Devin agt. Charles A. Feabody, values of this Court.

An order having been heretofore made adjourning to this day the motion to supersede the writ of certiorari issued herein, and the motion having been argued by counsel, it is ordered that the order heretofore, and on the 19th day of July, A. D. 1857, made for the allowance of the said writ of certiorari, and requiring the said Charles A. Peabody to certify and return as therein stated, he and the same is hereby wholly vacated and set aside.

And it is further ordered that the said writ of cer-

tiorari be and the same is hereby discharged and suspended, and that a writ of supersedeas issue accordingly. -(A copy.) RICHARD B. CONNOLLY, Clerk. A supersedeas then issued of which the following

THE PEOPLE OF THE STATE OF NEW-YORK.

is a copy:

THE PEOPLE OF THE STATE OF NEW-YORK,

To CHARLE A. PERBODY, esq., one of the Justices of the Supreme Court-GREETING:
Whereas, by our writ of certnorari, we lately commanded you to bring before the Justices of the Supreme Court of Judicature at the City Hall in the City of New-York, on the second Monday of September, 1857, all the test mony taken before you in relation to a certain proceeding taken by Daniel D. Conover against Charles Devlin, to compet the said Devlin to deliver up to the said Conover the books, papers, maps and documents connected with the office of Street Commissioner for the City of New-York, with your decision, process, warrants and orders on and during the pendency of such application, with all things touching and concerning the same: Now, it appearing to us, for divers good and sufficient reasons, that our said writ should be discharged and superseded, We do hereby order and direct that the aforesaid writ of certiforari be and hereby is discharged and superseded, and that you refrain from the production said writ of certiorari be and hereby is discharged and superseded, and that you refrain from the production before our said Court of the testimony, decisions, processes, warrants and orders or other things touching and concerning the same before mentioned.

Witness HENRY E. DAVIES, one of the Justices of our Supreme Court, at the City of New-York, the litth day of July, 1837. By the Court. RICHD. B. CONNOLLY, Clerk FIELD & SLUYTER, Attorneys for D. D. Covover.

Allewed in onen Court. July 18th, 1857.

ISEAL.] Allowed in open Court, July 18th, 1257.

DAMAGES ON THE INJUNCTION.

Mr. Field then moved the appointment of a referee to apportion the damages upon the undertaking on the injunction.

The proceedings being concluded before Judge Davies, the various counsel took their departure. Mr. Devlin left the Court room slowly and proceeded to the Street Commissioner's office.

ANOTHER INDISCITION.

The Counsel to the Corporation, anticipating that Judge Peabody would sign the warrant of search to obtain the books and papers connected with the Street Commissioner's office, the certiorari being quashed, proceeded about 11 o'clock to the Court of Common Pleas, and applied to Judge Ingraham on behalf of the Mayor, Aldermen and Commonalty, for an order restraining the Sheriff from executing the warrant of search. The following is

THE COMPLAINT.

The Mayor, Aldermen and Commonalty of the City of New York agt Daniel D. Conore, Chas Devlin, and James C. Willett, Sherif of the City and County of New York. The complant of the plaintiff above named shows—First: That the plaintiff have been for a long time and now see a Municipal Corporation, holding under Charter and other wise large and valuable powers, property and franchison. Second: That there is a department in said Municipal Corporation, which is called the Street Commissioner's Department, the chief officer of which is called and known as the "Street Commissioner" of Partment in Commissioner of Partment.

Commissioner "
Third: That connected with and appertaining to such Department are various books, maps, records documents and other property and papers, to which access is required to be had delily during business days for the administration of the duties

daily during business days for the administration of the duties of such Department.

That such books, maps, records, documents, and other property and papers belong to and are the exclusive property of the said plaintiffs, and the Street Commissioner has no other right to the control or use of the same than such as arises from his official

control of use of the same than store of the City of Dearth. That on the ninth day of June, A. D. 1277, Joseph S. Taylor, who up to that time held the office of Street Commissioner aforesaid, died.

That at the time of his decease there was an office connected with the department aforesaid, the incumbent of which was called and known as the Deputy Street Commissioner. That such office was duty created by ordinance of the Corporation aforesaid, and at the decease of said Taylor Charles Turner held such office, and was Deputy Street Commissioner of the City of New York.

Fifth: That from the decease of said Taylor until the 16th

aforesaid, and at the decease of said Taylor Charles Turner near such office, and was Deputy Street Commissioner of the City of New York.

Fyth: That from the decease of said Taylor until the 16th day of June, 1957, the said Turner acted as Street Commissioner, and performed the duties of Street Commissioner, having authority to to so under ordinances duly passed by said Corporation, and in such especity and the performance of such duties, had and enjoyed the use of the aforesaid books, maps, records, documents and other property and papers.

Sixth: That at the dute last mentioned, the Mayor of the City of New York, with the consent of the Board of Aldermen, daily appointed Chas. Davin Street Commissioner, in piece of said Taylor, deceased, and thereupon said Devlin suc-weded to and in fact obtained the sase and enjoyment of the aforesaid books and other property, as above described, and that said Devlin has continued such use, and performed his duties as Street Commissioner, from the time of his appointment to the date of the jurat to this complaint, under the free sanction and consent of the plaintiffs, who have recognized and still recognize him as such Street Commissioner in law and in fact.

Sesenth: That one Daniel D. Conover, claiming to be Street Commissioner for the City of New-York under some appointment, has commenced against said Devlin a proceeding under the Revised Statutes of this State, to compel the delivery to the said Conver of the aforesaid books, maps, records, documents and papers; that such proceeding was so commenced before the Hon. Charles A. Peabody, who holds the effice of Justice of the Supreme Court of the State of New York, and the said Penbody the things to said Conver, or, in default thereof, be committed to jail until he delivers the same or shall be discharged by law.

Eighth: That the said Devlin has duly obtained an allowance of the contribution of the committed to jail until he delivers the same or shall be discharged by law.

ted to jail until he delivers the same or shall be discharged by law.

Eighth: That the said Devlin has duly obtained an allow once of a writ of certiforal addressed to the shoreaid Pealody, respecting him to certify the record of the proceedings aforeaid and all the testimony, orders, processes and acts therein to said spreame Court, at the next General Term thereof, on the second Munday of September, A. D. 1857; that the allowance of such will is indorred thereon by the Hon Henry E. Davies, one of the Justices of the said Supreme Court, and the writ, with the allowance thereon, has been delivered to said Peabody.

Next: That notwithstanding the issuing allowance and service of such writ. the said Peabody is about to issue warrants in the process dings aforeasid—one to commit said Devitin to jail said he deallyers up said books and other things, or is otherwise standard by law, and the other directing a search of certain seateness belonging to the plaintiffs for such books and other them.

things, and that the same, when found, be swized and taken before said Peabody.

Tenth: That said warrants have been or are about to be defined to James C. Williett, Shoriff of the Sity and County to livered to James C. Williett, Shoriff of the Sity and County to be executed, and the said Conover has required that the same should be executed, and the Sheriff threatens to execute the

be executed, and the said to Sheriff threatens to execute the should be executed, and the Sheriff threatens to execute the same.

Eleventh: That the seigure and remark of said books, maps, records, documents and papers under said warrant would be a records, documents and papers under said warrant would be a records, documents and would reader impossible a full discharge by said partnerst, and would reader impossible a full discharge by said partnerst, and would reader impossible a full discharge by said Docks under the public of the means of access to said books and other property of the protection of public interests. That such science and removal would also, if followed by a delivery of the property to said Conover, put it in his power to involve the plaintiffs in liabilities, difficulties and liferations, by reason of his proceedings under the pretended claim of being Street Commissioner.

The of the That the aforesaid books, maps, records, documents and papers have a peculiar value as archives of a public office, and that their constant use is required to enable the plaintiffs to exercise their coporate functions, and to perform their corporate duties. And that he damages to be assessed in any suit or proceeding brought by these pisintiffs for any taking of such archieves or other property under the aforesaid warrant would archieves or other property under the aforesaid warrant would archieves or other property under the aforesaid warrant would archieves or other property under the aforesaid warrant would archieves or other property under the aforesaid warrant would archieves or other property of the injury occasioned by such taking.

The texture of the property under the aforesaid warrant would archieve and the plaintiffs have never in any way recog-

archieves or other property under the aforesaid warrant would afford adequate compensation for the injury occasioned by such taking.

Thirteenth: That the plaintiffs have never in any way recognized the claim of said Conover to the office of Street Commissioner of the City of New York, but always have repudiated, and now repudiate the same.

Wherefore the plaintiffs pray the judgment of this Court declaring said warrants, and each of them to be inoperative, and that the defendants Conover and Willett, their speats, attorneys and all persons acting for or under them, may, by the order of this Court, be perpetually restrained from taking any step whatever to have said warrants, or ofther of them, executed, and from removing, or causing to be removed, said books, maps, records, documents, and other property and papers, or any or either of them, from the place where they may be when such order is made, and from interfering with the same in any manner or way whatever; and that the said Devin may be in like manner enjoined from delivering said property, or any one claiming under or for him, and that said Conover and Willett be restrained from taking any steps whatever to obtain possession of said grooperty, or of any part thereof, but without prejudice to the right of said Conover to have the said certiforar returned, or otherwise legally disposed of, and obtain a judgment thereupon, or to proceedite a one tearrante to obtain possession of the aforesaid office of Street Commissioner; and allowing to said plaintiff such further relief, or such other relief, or both, in the premises as may be just, and that, in the mean time, and until the further order of this Court, the said defendants may be respectively, in like manner, restrained by preliminary or provisional injunction order. RICHARD EUSTEED, Attorney for plaintiffs.

Charles O'Conor, Danle! E. Sickies, Richard Busteed, being duly aworn, deposes and says that the foregoing complaint is true of his own knowledge and belief, and as to those matters he true of his o

City and County of New York, is.—Righter Batteed, being duly aworn, deposes and says that the foregoing compaint is true of his own knowledge and belief, and as to those matters he believes it to be true; that he is the Counsel to the Corporation of the City of Now York, and one of it a agents, and the allegations of the complaint are more within his knowledge than of any other agent of the plaintiff. RICHARD BUSTEED.

Sworn to before me this 18th day of July, 1857.

THOS. BOESE, Com. of Deeds.

Based on the above complaint, Judge Ingraham issned the following order:

On reading the complaint in the above-entitled action, and on hearing Mr. Busteed as counsel for the plaintiffs, it is ordered that the defendants herein be restrained until the hearing and determination of the order to show cause hereinafter contained, as follows: that is to say, that the said defendants, Daniel D. Conover and James C. Willett, their agents, attorneys, deputies, constables, and all persons acting for or under them, or either of them, from removing or causing to be removed the books, maps, records, documents, and other property and papers in the same complaint mentioned, or any or either of them, from the place or places where they or either of them may be, and rom interfering with the same in any manner or way whatever, and the said Chas. Devlin from delivering said property or any part thereof to the said Conover, or any other claiming under or for him. And let the defendants show cause before this Court, at a Special Term thereof, to be held at the City Hall of the City of New-York, on the 24th day of July, 1857, in the forenoon, why an order should not be made enjoining the defendants as above mentioned, until the final judgment in this action, or why some other or further order for the benefit of the plaintiffs should not be made therein. On reading the complaint in the above-entitled acmade therein.
D. P. INGRAHAM, First Judge of N. Y. Com. Plens.

made therein.

D. P. INGRAHAM, First Judge of N. Y. Com. Pleas.

THE SIGNING OF THE WARRANTS.

About 11½ o'clock the order and supersedeas, signed by Judge Davies, were served upon Judge Peabody. At 12 o'clock Judge Peabody took his seat in the Circuit Court roem. Of the counsel, Messrs. Field and Noyes, in behalf of Mr. Conover, Messrs. Field and Noyes, in behalf of Mr. Conover, Messrs. Field and Sickles representing the City and Mr. Devlin, were present. Mr. Conover was also in attendance. There was a large attendance of citizens, who felt an interest in the prospective action of Juage Peabody.

After the Court was opened,

Mr. Field stated that in the matter then pending before Judge Peabody he presumed that his Honor was aware that this morning Mr. Justice Davies, sitting in Special Term, had vacated the order allowing the ectiorari, and had directed in open court that the writ be discharged and superseded.

Judge Peabody said be had the papers with bim.

Mr. Field—Then, if the Court please. I ask for your signature to this warrant, that Mr. Devlin may be committed to jail. It is a copy of the one previously submitted, except that the cate is altered.

Judge Peabody took the warrant and read it, after which, at his request, Mr. Field read the section of the statute authorizing the issue of the warrants.

Judge Peabody—Mr. Brady, is there any further objection to this?

Mr. Brady—We would object to the whole proceed-

Judge Peabody—Mr. Brady, is there ally large jection to this?

Mr. Brady—We would object to the whole proceeding, of course, if it would do any good: but I suppose we have now no discretion in the matter [Laughter].

Judge Peabody then signed the warrant of arrest, and passed it to Mr. Field. Mr. Field gave it to Mr. Brewer, with directions to hand it to the Sheriff to

Mr. Brady remarked that Mr. Vultee, the Sheriff's deputy, was present.

Mr. Field stated that he would prefer to have it

the Sheriff himself, it possible. Mr. Bret warrant to the Sheriff's office by his clerk. sent the warrant to the Sheriif so office by his cerk.

Mr. Field then asked Judge Peabody to sign the
warrant of search. He said it had not been altered,
except to direct its execution by the Sheriff, or any constable, instead of the Sheriif, as it read in the first isstance. The statute was explicit on this point, it reciting that the Court should issue its warrant, "directed
in the court should issue its warrant, "directed citing that the Court should issue its warrant, "directed "to any sheriff or constable, commanding them," &c. He had an object in making this modification. He would not say that there was any collusion to which the Sheriff was a party, but he would say that circumstances were so exceedingly remarkable that unless he was compelled he would not have the warrant directed to the Sheriff alone. He would prefer to have the warrant put into the hands of an officer who had not had any connection with the matter. He did not mean any censure upon the Sheriff, but he certainly did interfere in a way which was supposed by Mr. Conover materially to be refit one and injure the other.

Mr. Brady said he supposed he was emitted to be

Mr. Brady said he supposed he was entitled to be heard upon this point. He did not believe that there was one man in this Court who could tell what books and papers belonged to the Street Commissioner's office. The warrant which the Court had just signed office. The warrant which the Court had just signed any constable might execute. It was a simple war-rant of arrest. But in the presentation of a warrant for searching for the books and papers they seemed to prefer to put the warrant in its alternative form, directing it to the Sheriff "or any constable." In so important a matter as this he thought it should be executed by some officer higher than constable, unless constables were changed in their character more

cuted by some officer higher than constable, unless constables were changed in their character more than at present appeared, they being "most desartless and fit" men.

Mr. Noyes—It is an unusual thing, may it please your Honor, for indulgance to be granted to one who has been contumacious, if not absolutely rebellious, to be heard in reference to the process that is to be issued to enforce the law which he has contemned. Criminals are not usually allowed by select their executioner, although it would be a pleasant duty on their part to have that indulgence; still, I do not know that a guillotine would be any easier in its operation if it part to have that indulgence; still, I do not know that a guillotine would be any easier in its operation if it were worked by a personal friend. My learned friend has been heard in reference to the officer to whom this process shall be issued, and what he has said is in substance characteristic of everything that has agitated this city for the last two or three mouths. It is violation of law—nothing more or less. It is a violation of law by private individuals in the first instance, and by professional individuals in the next instance, being wiser than the law. being wiser than the law.

Mr. Brady—I withdraw the objection.

Mr. Noyes—That dees not debar me from speaking. The gentleman has no right to make any objection as to the person who shall execute this. It is carrying out the principle of disobedience, in being wiser than the law and asking your Honor not to enforce the law. I say nothing of the compliment that my worthy friend has paid the constables. Of course, he must know what their position is, and know whether they deserve the remarks he makes. The responsibility must rest with him. I say nothing about the respectability of constables or sheriffs; it is enough for me to know that with him. I say nothing about the respectability of constablea or sheriffs; it is enough for me to know that the conduct of the Sheriff—and I say it without any squeamishness, has been such as to authorize suspicions in reference to his complicity. I make no charge about it, but it authorizes the gravest suspicions. Why, Sir, he has appointed Bennett, the leader of the violence to Mr. Conover, as a Deputy in his effice, and the Sheriff may appoint Bennett to execute this writ. We have a right to ask that the law, as it was made by the Legislature, and as it has existed for more than a quarter of a century, shall be enforced. No person here has a right to set himself up as wiser than the law, and the law has said who shall execute the process—that it shall be by the Sheriff or any constable. Nobody has a right to say that a constable may not, or that he is not fit to execute that process. We have no right to say that the Legislature in their wisdom did not properly select a constable to execute the process.

execute the process.

Mr. Brady-We don't withdraw our objection, but
Mr. Brady-We don't withdraw our objection, but simply acquiesce in the form asked for without argu-Judge Peabedy-I so understand it. The statute, I

think, settles the whole question. I think the warrant must include both the Sheriff and the Constable.

Mr. Brady here served upon Mr. Conover a copy of the injunction granted by Judge Ingraham of the Common Pleas, seeing which, Judge Peabody signed the warrant of search, and it was handed to Constable John R. Farrington of the Twelfth Ward.

Mr. Bredy—Your Henor naving signed this warrant, I have a communication to make. An injunction has been allowed by Judge Ingraham restraining the execution of this warrant which you have just signed; and inasmuch as you have from time to time adjourned to sproceeding. I desire to know if there is to be any adjournment, or whether the matter is to stop here?

Mr. Field—I of course have nothing to say of this announcement, that an injunction has issued in the face of this Court, further than that it is a lutle unusual and not very respectful to a Judge of the Supreme Court to announce that a Common Pleas Judge has granted an injunction against the execution of his process. I know nothing of this injunction. If there he any such thing, I hope you wit put it under your feet as its appropriate place. But, Sr. I take it for granted there is no injunction against the execution of his process. Throw working of this injunction. If there he any such thing, I hope you wit put it under your feet as its appropriate place. But, Sr. I take it for granted there is no injunction against you.

Mr. Noyes—There cannot be.

Mr. Field—I know there cannot be according to law, but strange things have been done. This proceeding before you is to get the books before you, to go on with the investigation as much so as if it were a subgana duces to cannot be injunction will remain in the Chamber an hour until the result of this matter be known.

Mr. Brady—I must characterize these last remarks

matter be known.

Mr. Brady—I must characterize these last remarks Mr. Brady—I must characterize these last remarks as uncourteous and impertinent in the highest degree, as out of place, un professional and uncalled for, but not unlike many things that have taken place. What these gentlemen will do with a process of the Court, duly issued, after their claunor and pretext about obeying the law, time will decide. What I rose for was to decide upon the matter of the adjournment; I cannot see the propriety of compelling your Honor to sit here for a single hour, when I state that an injunction has been issued by the Common Pleas. I suppose therefore that your Honor will not waste your time, because that injunction positively probibits Mr. Devlin from giving the books to Mr. Conover, and Mr. Conover from taking them.

that injunction positively prohibits Mr. Devan room giving the books to Mr. Conover, and Mr. Conover from taking them.

Mr. Field—The remarks which my friend has made about impertinence I throw back. There is much which authorizes me to make severe comments. We have had every sort of legal artifice and artifice not legal resorted to to the wart this proceeding before you. We have had an injunction served at 5 o'clock one day to show cause the next. We have had a Judge back square out of that as improperly granted. We have had a certiorari with an explicit statement from the Judge that it was not to be a stay of proceedings, and yet we have had counsel come within five minutes after it was granted and hold that it was a stay. We have had argument after argument, and at last the certiorari is quashed, and next we find an injunction issuing out of another Court close upon the conclusion of this case. I say, Sir, that my remarks are pertinent to the inquiry, and pertinent to the conduct of counsel on the other side. I do not impugn their motives. They doubtless suppose that that sort of thing is proper. I do not think so. As to this injunction, I take it for granted that it amounts to nothing at all. If ever an injunction comes from the Court of Common Pleas to the Supreme Court, I bope they will trample it under its feet.

Mr. Brady remarked that the warrants could not be

Mr. Brady remarked that the warrants could not be Mr. Brady remarked that the warrants could not be executed. It was against "Daniel D. Conover and "James C. Willett, their agent, attorneys, deputies, "constables, and all persons acting under them," &c. He had anticipated this movement, and the injunction en.braced every class of officer who might undertake to enforce the warrant against the injunction of the Court of Common Pleas. A copy was in the Street Commissioner's effice to serve upon any person who might present himself there. It was returnable the 24th of this month, and he hoped there would be an adjournment to that day.

adjournment to that day.

Mr. Field said that an injunction against every body or all men was as good as so much blank paper, and

or all men was as good as so hater the property of the better.

The discussion on the matter of adjournment was here brought to a stand by the unexpected appearance of Mr. Peckham, one of the clerks in the Street Commissioners Office, with a pile of a dozen books, which he placed on the counsel's table. All present were astronished; and this was in no wise diminished by Mr.

he placed on the counsel's table. All present were astenished; and this was in no wise diminished by Mr. Farrington coming into the room with a second pile, afterward with a third, and the hast.

Mr. Farrington announced that on leaving the Street Commissioner's Office with the third lot of books, an injunction, issued by Judge Ingraham, had been served on him, directed to him. Mr. Field then looked at the paper, and directed Mr. Farrington to desist in the further execution of the warrant.

At this movement Mr. Conever, in company with two of his friends, left the Court room; but his departure being noticed, several others followed.

On the books being brought into Court, Mr. Brady said it was in violation of the injunction, and, for that reason, but with all respect for the Court, he declared his determination to leave the case. He would leave it entirely to the disposition of the counsel and the Court, and would, because of the illegality of the proceedings, take no turther part in them.

The Court informed Mr. Brady that it had no leg-1 knowledge of the injunction issued by the Court of Common Plees whatever; that said injunction had not been brought before it, and it had no right to take notice of said injunction in any way.

Mr. Brady considered them had been a great viola-

been brought better it any way.

Mr. Brady considered there had been a great viola-

from 6 law, and retired.

Mr. Field said that the books had been brought there by the constable, and he (Mr. Field) had no knowledge of the existence of a paper claiming to be an injunction until it was banded him by the constable. ble. He immediately advised the constable, as a nestler of courtesy—not of law or right—to submit to the injunction, and take no further action in the execu-tion of the warrant till said injunction was disposed of. He had been throughout the whole case anxious that nothing should be done on their part that was in violation of any occure of any Court; he wished to observe the greatest courtesy toward all the processes of the Courts.

of the Courts.

Mr. Field concluded by suggesting that the books which had been brought into Court should be kept under its charge till further action was taken in the

atter. The Court thought the books were still in the cus The Court thought the books were stain in the custody of the efficer who brought them there.

Mr. Field read from the statute to show that the books were in the custedy of the Court.

The Court agreed to keep the costedy of the books till its next meeting, and suggested that the meeting had better take place on Tue-day next.

The coursel agreed to the suggestion, and drew up the tollowing order in regard to the custedy of the locks, which was given by the Court:

The counsel agreed to the suggestion, and does in the books, which was signed by the Court:

In the matter of the application of Daniel D. Conover to compet Charles Devils to deliver to him the books and papers of the Street Commissioner's Office.—The constable, John R. Farrington to when the warrants to search for the books and papers in this matter had been delivered for execution, having brought into Court before the said Justice a portion of the said books, and having stated that pending the execution of the said books and having stated that pending the execution of the said book upon him, restraining him from executing the same, and that he had thereupon desisted from the further execution thereof and did not take any more of the said books or papers, and on motion of Messus, Field and Noves, for the said Conover, it is ordered that the said books to, brought into Court before mental in the emstady of Henry Bertholf, one of the officers of this Court, and of his State and County of New-York, until Treedey next, at 12 o'clock in of that day, to shide my further order, and that all proceedings before me in this matter be, and New York, July 18, 1867.

The Court then adjourned till Tuesday next at 12 m.

The PROCEEDINGS IN THE STREET COMMISSIONER'S

THE PROCEEDINGS IN THE STREET COMMISSIONER'S

When the warrant of arrest was signed by Judge Peabody it was at once conveyed to the Sheriff's Office to deliver personally to Sheriff Willett. The Sheriff being out of town seme delay was occasioned thereby, but it was finally given to Deputy Sheriff Vuice to execute. A few minutes previous to this the warrant of search

A few minutes previous to this the warrant of search was landed to Constable Farrington. He read the paper and immediately went into the Street Commissioner's Office, accompanied by Mr. Peckham. Mr. Peckham at once took several of the books and left the building. As he was going down the stairway some person asked him where he was going with those books. He made no reply but passed on, conveying the books be fore Judge Pesbody, as already described. Mr. Farrington went into the private office of Mr. Devlin, where he found Mr. Devlin and Mr. Turner. Mr. Farrington addressed them as follows:

Mr. Farrington addressed them as follows:

Constable—I came, Mr. Pevlin, to take possession
of the books papers, maps, &c., of the Street Commissioner's office, to convey them before Judge Peabody. Mr. Devlin-You can't have them. Sir.

Constable—I shall take them by authority of a war-rant of search which I have [showing his warrant]. Mr. Devlir—Wait ten or fifteen misutes before you Air, Devlin-Wait ten or fifteen minutes before you execute it, until Mr. Busteed comes.

Constable-No. Sir. I can't do that. The warrant commands me to bring the books before the Court forthwith.

forthwith.

He at once proceeded to take some of the books and carry them below. He returned and secured a second lot, and as he was making his way out of the building he was met by a gentleman said to be Mr. Carrell, partner of Mr. Busteed, the Corporation Counsel, who stopped him and showed him the injunction, saying: "Do you acknowledge the authority of that?" Mr. Farrington stopped and looked at it. After a cursory examination he said: "No, Sir, I do not. It is not di-

rected to me."

The constable passed on with his books.

While he was gone a copy of the injunction was prepared, and the name of John R. Farrington placed on the outside, and when he returned and was leaving with the third lot of books, he was again stopped,

Court and stated the facts to Mr. Field, who told him to refrain from a further execution of the warrant.

THE ARREST OF DEVLIN.

About this time Deputy Sheriff Vultee arrived at the Hall of Records with the warrant of arrest. He came into the office and told Mr. Devlin that he had a warrant directing his arrest. Mr. Devlin said he was ready to obey it, and putting his hat on his head, took his departure for Eidninge-streat Jul.

tent directing his arrest. Mr. Devin said he was ready to obey it, and putting his hat on his head, took his departure for Eidridge-street Jail.

MR. GONOVER ARRIVES AND TAKES POSSESSION. The proceedings of the constable under the warrant of search and the arrest of Mr. Devin crented no little contustion. The clerks ceased their writing, and commenced to discuss the matter. The whole affair was pronounced to be "a d—d rascally proceeding," while Mr. Turner, late Deputy Street Commissioner, expressed the opinion that all who were engaged in it were a "set of thieves and robbers." Already persons began to collect about the office to see what next would be done. They were not long in waiting. At 1:20 o'clock Mr. Conover entered the place, accompanied by Mr. Silcock of the Eighth Ward and at other gentleman. A crowd of about a dozen followed. Mr. Turner was standing in the middle room at the time. He saw that the chair of the Street Commissioner would be quickly occupied unless he was prompt in his action. He rushed forward and got into the inner office, and seated himself behind Mr. Devilm's desk. Mr. Conover followed bim, and when he had passed around to the left of the chair where Mr. Turner was seated, he said: "Sir, I demand possession of that chair. The Supreme Court of this State has decided that I am Street Commissioner of this "city, and that I am the rightful occupant of the office."

Mr. Turner—I shall not give it up, Sir. You have

hr. Turner-I shall not give it up, Sir. You have

Mr. Turner-I shad not give it up, Sir. You have no right here whatever.

Mr. Conover-You must, Sir.

At this moment several persons who were near the railing came within the gate, took hold of Mr. Turner and pulled him out of the chair and put him without

the railing.

This for the moment caused a general rush for the place, in the midst of which Capt. Bennett, who had previously entered the room, rushed behind the railing to Mr. Conover, who had now taken his seat. Capt. Bennett's sudden appearance increased the commotion. Taking hold of Mr. Conover, he said, in a loud and avoid tone.

and excited tone:
"Mr. Conover, I arrest you for disturbing the peace

of this place."
Mr. Conover—By what authority, Sir?
Capt. Bennett—By my authority as a Sheriff's Mr. Conover-I have no knowledge of your au-

therity whatever.

Capt. Bennett—I arrest you, as a Sheriff's officer, and I appeal to the citizens here to aid me. I have a Sheriff's warrant in my pocket, and I arrest Mr. Con-

Mr. Conover-What do you want to arrest me for have made no disturbance. Capt. Bennett-You have, Sir; you have; you have

Capt. Bennett—1ou nave, Sir; you have, You have used violence against Mr. Turner in my presence.
Mr. Conover—I have not, Sir.
Mr. Turner (who was standing about twelve feet distant in the opposite end of the office)—You lie, d—n you, when you say so; my knee will show that Capt. Bennett—You violently drew Mr. Turner out

A Voice [to Capt. Bennett]—You are the only one making any disturbance. It would be quiet enough if it were not for you.

Capt. Bennett—Very well; I shall submit, as I am

Capt. Behnett—try wen't alone.

Capt. Bennett left the room, finding that, without the bullies of the old police, he could effect nothing in resisting the law.

The room at this time had become quite crowded,

resisting the law.

The room at this time had become quite crowded, and Mr. Conover ordered Mr. Pollock, one of his clerks, to stand at the door and admit any persons who desired to see him on official business.

A few moments after, Mr. Colvin, one of the clerks who had refused to recognize Devlin's appointment, came and offered his keys to Mr. Conover. He was told to keep them, as he had previously reappointed him to his former position. James Irving, who was a superintendent of one of the Bureaus of the Department of Repairs and Supplies before it was merged into the Street Department, under Mr. Taylor and Mr. Conover—both having refused to recognize Devlin's appointment. In both cases, Mr. Conover both the was not prepared at present to take any action.

Police Justice Welsh arrived at the office soon after Mr. Conover took possession. Mr. Conover observing him stated that he understood he was charged with a misdemeanor in taking possession, and that he was to be arrested. In anticipation of any action of that kind he would surrender himself.

Justice Welsh then made out a warrant of commitment as follows:

New-York, July 12, 1837.

To David Carefiner, who had arrived at twenty minutes before two o'clock, then received Mr. Conover in custody. He gave bim into the charge of Server in custody. He gave bim into the charge of Server in custody. He gave bim into the charge of Server.

Mr. Deputy Carpenter, who had arrived at twenty minutes before two e'clock, then received Mr. Conover in custody. He gave him into the charge of Sergennt Coulter, of the Twenty-second Precinct Police, with direction to keep him, and not let him be taken out of his custody by any body else.

Subsequently, Sergeant Weed arrived with a force of twelve policemen from the Second, Third and Fifth Precincts, with instructions from Deputy Carpenter to keep order in the place, and prevent any violence against the person of the Street Commissioner or the oflice.

against the person of the Street Commissions office.

During the afternoon Mr. Conover appointed Mr. George T. Rogers, who has been in the office for four pears past as Contract Clerk, as Deputy vice Turper removed Various other official acts were persent removed.

Mr. Turner remained in the middle room behind his Mr. Turner remained in the imade room behind an accustomed desk until 4 o'clock, the usual hour for clesing the effice, when he took his hat and left. Several of the clerks appointed by Mr. Devlin also renained about the place, but cid not do anything. Their places were taken by the clerks who had been reappointed by Mr. Corover when he took possession

The keys of the office and desks could not be found,

and lock miths were sent for.
At 4 o'clock, Constable Farrington, who had been At 4 o'clock, Constable Farrington, who had been deputed by Judge Peabody to keep possession of the becks, papers, maps, &c., remaining in the Street Commissioner's Office pending the injunction issued by Judge Irgraham, made a requisition upon Mr. Deputy Carpetter for assistance. Officers Curtis and Orpheus of the Second, Folwell and Ayres of the Third, and Cottell and Westcott of the Fifth Precinct, were assigned to assist Mr. Farrington in carrying out the cross of the Court.

At a late hour in the afternoon, Mr. Conover left his office in custody of Sergeant Coulter, after the clerks

office in custody of Sergeant Coulter, after the clerks and others assembled had taken their departure, leaving the efficers in charge of the place. Up to this time, he and all others acting or interested in the matter had deferred to the injunction upon its being erved.

At a late hour on Saturday, Judge Ingraham was applied to at his house in One-hundred-and-twentyfith-street, for an order to show cause why this injunction should not be dissolved. It was proposed to make this returnable on Monday, but the Judge being occupied with the hearing upon the injunction restraining the payment of the new police, Tue-day was substituted. The application was grounded upon

MR. CONOVER'S AFFIDAVIT.

MR. CONOURS'S AFFIDAVIT.

NEW YORK COMMON PLEAS.

The Mayor, Aldermen and Commonsity of the City of New York, against Daniel D. Conover, Claries Devin, James C. Willett, Sheriff of the City and County of New York.

CITY AND COUNTY OF NEW-YORK, 88:—Daniel D. Corover of the said city being duly sworn, says that he is Street Commissioner of the City of New-York, under an appointment made by the Governor of the State, on the death of Joseph S. Taylor, the late in-

State, on the death of Joseph S. Taylor, the late incumbent, in June last, and as such took possession of
the apartments of the Street Commissioner's office
about four days before the alleged nomination and appointment of Charles Devlin by the Mayor and Alderman of said city, and that he was foreibly ejected from
the raid apartments by the direction of the Mayor and
others, as deponent is informed and believes.

And deponent further says that the said Charles
Devlin was a party to the proceedings before Judge
Peabody, by which deponent sought possession of the
books and papers of said office, as mentioned in the
complaint in this action; was fully heard thereupon,
and produced winesses in his behalf, and the adjudication of the said Judge remains in full force and effect,
the writ of certiferary mentioned in said complaint having been this day superseded by his Honor Judge
Davies who granted the same, upon due notice to the
said Devlin, and after hearing counsel on his behalf,
and that the order for said supersedeas has been duly
entered and a writ of supersedeas thereon daly entered and a writ of supersedens thereon duly

And deponent further saith that he is informed and believes that the said Devlin has been arrested by the Sheriff of the City and County of New-York upon the upon the warrant for that purpose issued by Judge Peabody, and is now in custedy, and that the warrant also issued by the said Judge, commanding a search for the books papers, &c. of the said Street Com-missioner's office was placed in the hands of constable Farrington for execution, and the execution thereof missioner's effice was placed in the hands of constable Farrington for execution, and the execution thereof commenced, and a small portion (being about fifteen books in all) of said books were brought before Judge Peabody on said warrant, and that then the paper purporting to be a copy of an injunction in this cause was banded to him, and that as soon as the said copy injunction was thus served this deponent and his counsel directed the said coastable to desist from the

further execution of the said warrant, which he ac cordingly did; that Judge Penbody then made an or-der that the books so brought in should remain in cua-tody of one of the officers of the Court, and adjourned further proceedings in the matter until Tuesday next,

further proceedings in the matter until Tuesday next, 12 m.

And deponent further saith that annexed is a copy of the order of Judge Peabody upon deponent's said application for said books, and also a copy of said writ of supersedeas, and also a copy of the warrant in process of execution by said constable Farrington.

And deponent further saith that he has been in possession of the tranchise and office of the Street Cookiesiener of the City of New-York since the 13th day of June last, and that he has been prevented from the full and complete execution of the duties of his said office by the withholding from him of the books, maps, papers and documents aforesaid appertaining and belonging to said office, and this deponent has not yet been able to obtain possession of the same.

Sworn before me this 18th day of July, A. D., 1257.

The following is the Order of Deeds.

ORDER TO SHOW CAUSE.

On reading the affidavit of Daul D. Conover, on

On reading the affidavit of Danl D. Conover, on motion of Field & Sinyter, Attorneys of the said Daniel D. Conover, ordered that the plaintiffs show cause before this Court, at a Special Term thereof, on the 21st day of July instant, at 41 o'clock a. m., why the injunction herein should not be vacated or modified. And it is further ordered that the motion for the continuance of the temporary injunction herein, which was ordered to be heard on the 24th instant, be heard instead thereof on the said 21st July, at the hour above named.

New York, July 18, 1837.

New York, July 18, 1837.

named. D. P. INGRASIAM, First Judge.

New York, July 18, 157.

WANTED—A HAREAS CORPUS.

As the news spread of Devinn's arrest and imprisonment in Eldringe street Jail, a howl of virtuous indignation rent the air, proceeding from the burrows of the Dead Rabbits. They couldn't believe it; they asserted with profane emphasis that a Democratic Sheriff wouldn't execute such a warrant; that it was a Black Republican lie, &c. Inquiry, however, confirmed the rumor. Steps were at once taken to procure the release of the Mayor's favorite. A habeas corpus was suggested as a ready and efficient means. "Hadn't it got Fernando out of his troubles?" "Of course it had." "Where's Judge Russell?" And at once divers individuals were making bee-lines for the man whe plays second fiddle in the Municipal Rogue's March. But the judicial staff of the Mayor, upon which he had been wont to lean his weight, was non which he had been wont to lean his weight, was non est inventus. Judge Russell was in Canada. They couldn't trust any body else and "Charley Devlin" re-mains in Eldridge street Jail.

cou dn't trust anybody else and "Charley Devlin" remains in Eldridge street Jail.

By the arrest of Devlin and by Mr. Conover taking pessession of the office of Street Commissioner, was "Charley Ring," famous for nothing in particular, except being a prominent member of the Common Council of 1852 and '53—sometimes called the "Forty Thicves," because some people were so unkind as to say they were not a bit more honest than they ought to be, and because the Grand Jury, about that time, insisted upon cailing stealing by its right name. Mr. Ring is a prominent member of the Dead Rabbit Central Committee, and because of his numerous other virtues, was appointed Superintendent of Street Improvements under Mr. Devlin, where his peculiar talents, it was believed, could be used to advantage. The old office of the Chief of Police had been assigned, at the dictation of the Mayor, for the use of the Bareau at the head of which he supposed he was, despite the action of the Common Council ordering it to be given into the possession and for the use of the Metropolitan Police. Over the door a new sign had already been put, containing the words "Superintendent of Street Improvements." Mr. Ring came, among others, to the Hall of Records on Saturday afternoon, and surveyed the alarming spectacle of Mr. Conover occupying the chair of the Street Commissioner. He left the premises and confirmed to McKellar rusaed out of doors, and in a few moments the new sign was displaced from over the entrance, and the old sign of the official cake was all dough. McKellar rushed out of doors, and in a few moments the new sign was displaced from over the entrance, and the old sign of the Chier of Police was again in its place. McKellar says that "the Police Commissioners shall not have the office. The office of Chief of Police was not abolished by the new law, and not being abolished, it still lives. He is Clerk of the Chief of Police. To be sure, the Chief of Police resigned, and is now in Iowa hoeing com and raising outons; buthe (McKellar) is his clerk, and is bound to hold possession of the place."

Where's Branch?

SUPREME COURT-Special, Term-July 18.—Before Judge Davies.

Decisions—the Paulding Case.
This mening Mr. Young renewed his motion for permitting the referee to take further testimony in this proceeding at Tarrstown, where a large number of the witnesses reside. Mr. Noyes opposed, but the Judge directed that the witnesses be examined in Tarrytown on the 8th of September next, and in the mean time that Mr. Paulding be at interry to visit his echildren and that his connect he notified of the places where the children may be staying in the State.

Frederick R. Jenkins agt. Helen L. Jenkins.—Divorce granted.

Wm. C. Whipple agt. Henry Coulter,-Writ of cer Geo. R. A. Richetts and Sundry Mining Companies agt Roswell Green et al - The motion to strike out the name of Rapden Mining Company as plaintiffs granted, with \$10

Mr. G. Lane agt. Lutz et al.—Report confirmed.

CHARGE OF RAPE ON SHIPBOARD. UNITED STATES COMMISSIONERS' OFFICE-JULY 18. -Before J. W. Bridgham.

The examination of the charge for rape brought by Mies Jane Haggard against Capt. Conway was resumed on Saturday at noon. The Commissioner said that, unless counsel de-

sired it, he would take to minutes, but would rely on the newspapers for notes of the testimony. Jane Haggard's cross-examination continued by M. Dean.—There were two doors to the captain's cabin, but one was kept locked and fastened; the one nearest the deck was open; there were two berths in the stateroom, but one was filled with different articles of the captain and could not be occupied; this was rearrant the ones door.

Q. Wasn't there a light, so that a person could stend on the deck and look the whole length of that room? A. There was only a light, but no person can see through it; when I was on the outside I tried to

see through it; when I was en the outside I tried to look through, and could not.

Q. Why did you do that? A. Out of curiosity, one day, as I was going out of the cabin to go on deck.

Q. Why did you look through? A. I looked to see if others could see through.

Q. How long was it after you had been out on the passage? A. I don't know, Sir; I never saw it open; the Captain never kept it open; he did those toward the sea, where no person can see; the berth is about a foot above the floor; the Captain took hold of me around the waist when he pulled me on to the bed; he spatched my hand from the handle and partly carried me there.
Q. Which is the tallest, you or the Captain? A. I

Q. Which is the talket, you or the Captain S. Co. I know.

Q. Didn't you get into that bed first? A. No. Sir; not until he pushed me in; the Captain sat on the side of the berth and pushed me in; every day he came in and scolded me for not going to bed, and undressed me and put me in bed.

Q. Which sid he commit the second rape on you?

me and put me in bed.

Q. When did he commit the second rape on you?

A. On the next night; he locked his room door and told me to go bed, I refused; I was very sick, and he undressed me and lifted me into bed.

Q. Did you scream any? A. I had been crying all day; he was with me all night the first night; I rattled the door next day, but did not see anybody.

Q. How did these lights open? A. I opened those into the sea, but not the others.

into the sea, but not the others.

Q. If you wanted to get out, why didn't you open the light on the deck? A. They were higher than my head, and I could not get anything to stand on; I did not call at the side windows, because I knew it would be of no avail; he said I need not make such a fuse, as I knew he intended to marry me; I said I did not want to have anything to do with him; I tried to get away,

to have snything to do with him; I tried to get away, but I could not; the captain treated me very improperly; he pulled me in the berth at the same time that he went; I first; he pushed me there.

Q. Did he leave any marks of violence? A. Yes, Sir, on my arms, and knocked my head against the betth and broke my combs.

Q. Did you show any one those marks. A. I showed the Captain; I had no opportunity.

Q. Did you frequently walk and talk with other persons? A. No, Sir; I was forbid to do it by the Captain.

Which side of the berth did the Captain liest? He was at the fore side, to keep me in; he held me

A. He was at the lore side, to keep hand, which both hands all the time?
Q. Had you your clothes on? A. No, Sir; I had my clothes on the first time.
Q. Did be hold you with both hands all the time then? A. He held me so that he accomplished his

Q. How did he hold you?
[The witness was very unwilling to proceed, and the District Attorney suggested that the room should

be partially cleared]
Q. Did you leave any marks on the Captain? A. I should think so.
Q. Where? [Long pause.] The marks resulted from his violence to me, I suppose.
Q. On what part of his person? A. I scratched his hands. hards.
Q. Did you scratch his face? A. No, Sir; I didn't wish to do it if he would let me alone.
Q. Was his face within reach? A. Yes.
Q. Why didn't you scratch it? A. I didn't wish to

scratch it if he'd let me alone. I pushed his head away and scratched his hands. I didn't want to mark him if he'd let me alone. I pulled his hair.

Q. Why didn't you scratch his face? A. I don't know that I did not.

Was his face scratched the next day? I don't

Q. Was his face scratched the head think it was, Sr.
Q. Had you any relatives on board of that ship?
A. No. Sir, I had no friend.
Q. Were there not two men among those emigrants who used to send in for you and said they were your thinks.

A. No. Sir.

uncles? A. No, Sir.

Q. Were you ever deranged before this occurrence?

A. No, Sir.

Mr. Peachy's state-room was next the captain's. Q. Did you ever kneck on it to try to make him hear you? A. No, Sir; I never went on deck best once when I was accompanied by Capt. Conway; E caw Mr. Peachy and talked with him on the deck over the cabin; all in the cabin saw me crying daily; Mr. Peachy and Mr. Shaw and the cabin boy and the

Mr. Peachy and Mr. Shaw and the cabin boy and the steward.

Q. The steward used to see you going in and out?

A. I suppose so; I was always crying; every time I went on deck I was crying; I cannot say how many times; sometimes I would not go on deck for two or three days; the captain told me when we came to Quarantine that I must go immediately to my sister's, and he gave me the money to go; when I got to my sister's I teld my sister that the Captain had promised to marry me on my arrival, but had not done it; I did not tell her until I had become deranged; I found the excret was more than I could bear; I had told Dr. Nickerson not a great while after I got there; I told him before my sister that I had been seduced; I expected that I was in a very pitiable situation; he said that the miscarriage was produced by sickness and extreme anguish of mind.

Q. Was what you told Nickerson the truth? A. O yee, Sir.

yes, Sir.

Q. If you had not been in the family way, would you have made this complaint against the Captain. (Objected to and overruled).

Q. Have you read these letters since they were produced yesterday? A. I have not, Sir; my sister has; I have not been deranged since Sunday last.

Q. Have you authorized any one to offer to settle this with him for meney? A. No, Sir; the Captain offered me intoxicating liquor several times, but I refused; I did not drink; I did not see any colored people in the steerage; some of the crew were. ple in the steerage; some of the crew were.
Q. Did you ever drink liquor with them? A. No

Q. Did you ever drink liquor with them? A. Ne, Sir.

Q. Did you ever consent to the Captain's having connection with you? A. No, Sir; I was compelled to remain with him.

Q. When the Captain was forcing you, why didn't you scream sometime during the voyage? A. I knew I was obliged to remain in the cabin, but it was against my will, and I pushed him every time.

Q. Were you afraid the passengers would hear you?

A. No, Sir.

Mr. Dean—I know a lady who came with a complaint that she was ruined, and after getting a warrant she came back and said she had been ruined again by the same man. The Justice asked her what she meant, and she said she liked to be ruined. So, I think if a girl gets raped thirty-seven times in succession, some such thing is to be supposed.

Q. Did you push him the second night? A. I did.

Q. Did you push him the second night? A. I did.

Q. Did you resist him in every possible manner every night? A. I knew I had to stay there; the first time I could get out the passengers insulted me very much, and pushed me down the steps.

Q. Did they know what had happened? A. I dare say they oid; Mr. Peachy told me he had heard a great many disgusting observations about it; I was standing in the captain's room door then; I said well, I know not what to do; he said he feared I should be obliged to remain there; he said never mind, he would see me righted.

Elizabeth Davis, sworn—I reside in Kendall, Or-

see me righted.

Elizabeth Davis, sworn—I reside in Kendall, Orleans County: Jane Haggard is my sister; she came to my house on Sunday, 24th of May; she has remained with me since; her health appeared well; I hadn't seen her in seven years; she has been sick pretty much of the time; I have been married four years, and have been in the country seven years; my husband hires a farm; I think it was about the 14th of June before she was sick enough to need the doctor; last week he was there pretty much every day; she wrote letters after she was deranged, and I burned several that she seat to Capt. Conway; she went to the Post-Office and might have sent others; she had what the Dootor supposed to be a miscarriage about the 14th of June.

Jeremiah Duane sworn—I am one of the Deputy—

to Capt. Conway; she went to the Post-Office and might have sent others; she had what the Doctor supposed to be a miscarriage about the 14th of June.

Jeremiah Duane sworn—I am one of the Deputy-Marshals; I arrested Capt. Conway on the 8th of July; he appeared to be a little astonished, and said he was engaged to be married to the lady; Mr. Hart was with me.

Mr. Joachimsen said that these were all the witnesses he had to-day, he would have Dr. Nickerson by and by.

Mr. Dean would move to discharge the prisoner on the testimony unless they had more restimony.

The Commissioner said that he should take time to lock into the matter.

Francis Nichols, second mate of the Switzerland, sworn: I know this girl Jane Haggard; caw her on the evening of April 11, lying in the river: the versel sailed on the 14th; I took notice of her going on the poop and stopping there by herself till 10 or 11 o'clock at night; her two uncles was walking the deck below; Inever spoke to her on the first of it; on the third night after we left I see her go below and bring up her night clethes and go in the captain's room and undress herself; the captain was on the poop; it was my watch on deck, and at 11½ o'clock I called the captain; they were undressed in bed togetherquiet; I've allus seen 'em sleep-in'together every night durin' the whole passage; never seen no ill usage whatever; she gen'ly staid up on the poop, havin' their hands in improper places, kissin' each other; I've very ofn seen her talkin' with the niggers and diffrunt people bout decks, jest whoever she happened to meet; she appeared to be very well contented with her lot; never seen her captain's room; could see all transactions in it; it was mostly alius open; by being in the mizzen chains you could see in the side; they was five hundred and sixty odd passengers, not countin the crew nor the ship's company; they had full liberty, exceptin' at the wheel; this deadlight they could lock into; where you git into the outside.

Samuel Hobson, mess-room boy, sworn—Came on this w

the outside.

Samuel Hobson, mess-room boy, sworn—Came on
this voyage; came on board on Good Friday, the 11th
of April; saw this girl that morning; she went in the
name of two uncles; I fetched word from them to her of April; saw this girl that morning; she went in the name of two uncles: I fetched word from them to her and from her to them; they ate in the starboard forecastle with the niggers; when we got to New-York she told me to tell them to go on and not mind her, and they went on the steamer; she didn't own it at first; on Good Friday night I seen her and the crew had some whisky, and she was a drinkin' it, and she wasn't hardly able to stir; upon the 14th I seen her goin' into the capn's room; she come up from between decks with something under her arm, and I didn't know what it was till I looked through the dead-sight and see her undressin' herself; I was washin' the cabin, and she wanted me to go and get her close, and she would give me the trunk; she appeared very arty, an' was a talkin' and larfan'; she was 'appy enough; the passengers used to ask me where that had girl was with a fly-away cap on; the passengers generally called her so; I've seen her in the capn's room in bed, all naked all together.

Cross examination—We went out on Tuesday, and on Monday I seen her goin in; the other boy went to

Cross examination—We went out on Tuesday, and on Monday I seen her goin in; the other boy went to Toronto, and the surgeon back to Liverpool; Mr. Penchy died; they said he took fits.

George Hubert—I am Frenchman; am seventeen past; I see this girl on de leven of April on de cochpit tak no re littel passenger girl; de day we went out she was sick; de cap'n tell her go down and he give her some medicine; I see her skylarkin wid Mr. Peschy; I see her lay down on de poop; he look all round if dey was anybody comin, and den he jump on her and kiss her, and he look at me a laughin; I see his hand on her dress; she had all de time a book; I seen her come up, and when we see a ship Mr. Peschy go down and call her; I see her talk wid de niggers bout de wender; she did talk to me; I did'nt see her cryin any time; you can open de window in de cabia of de cap'n if you like; dat first day she wen in de cabin, and de cap'n bymby; he looked at de weader fust; she was sleepin wid him all e time.

Thomas Conway, brother of the captain, sworn—

Thomas Conway, brother of the captain, sworn-Knows the Switzerland; the opening to get into the captain's berth is two feet and some three or four nches high. Alexander R. Jackson, stevedore, testified to the

Alexander R. Jackson, stevedore, testined to the same.

Mr. Dean then moved for the discharge of the captain. This charge of rape, he said, no sane man could believe in. No rape could be committed by one man upon one woman. No man who would refer to his own experience but must know this to be impossible. Here was a large, double breasted woman, and no man in this room could commit this crime upon her. And here were five or six hundred passengers who could any of them look in. She was conveniently voiceless, and conveniently crazy at times. We do not undertake to deny that the captain did sleep with the woman during the voyage. He did do it, and has been punished by it. She is contradicted wherever it is possible that she should be contradicted. We have proved that she was lying quietly by the side of the captain when she says that she was sitting upon the truck. She says that she had but one conversation, and that with Mr. Peachy. We have proved that she